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**PRIMARY ELECTIONS.**

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CHAS. U. WILLIAMS, Richmond, Va.

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*Virginia Constitution, Article II, Section 35.* "No person shall vote at any legalized primary election for the nomination of any candidate for office unless he is at the time registered and qualified to vote at the next succeeding election."

*What is a legalized primary election?* Any primary election is legal when the rules and regulations are not incompatible with the law, and when those rules and regulations are so carried into effect as not to violate the law.

Can this section give to the Legislature any power to legislate as to primary elections beyond the inherent power to provide that when primary elections are held the parties holding them shall not violate any law, and that persons who in the conduct of the primary do violate law shall be punished and their punishment prescribed?

*Section 36.* "The General Assembly shall enact such laws as are necessary and proper for the purpose of securing the regularity and purity of general, local and primary elections, and preventing and punishing any corrupt practices in connection therewith, and shall have power, in addition to other penalties and punishment now or hereafter prescribed by law for such offences, to provide that persons convicted of them shall thereafter be disqualified from voting or holding office."

This section means nothing more than that the Legislature shall pass laws necessary for securing regularity and purity in primary as well as local and general elections. What shall these laws be? Only punitive laws prescribing penalties and punishment for irregularity and impurity in the conduct of those conducting the primary, local or general elections, including the penalty of disfranchisement.

Prior to the adoption of the present constitution and in the absence of any constitutional provision on the subject, the General

Assembly passed an act approved February 2, 1894, entitled "An Act to legalize primary elections and conventions in the City of Richmond (see Acts 1893-4, p. 417), and later on an Act approved February 20th, 1896, entitled "An Act to legalize the primary elections in the County of Henrico (see Acts 1895-6, p. 414). Both of these Acts proceed upon the same general lines, looking to the purity and regularity of party nominations; but, when you analyze them they go further than the mandate of the present constitution which provides that the Legislature shall enact such laws as are necessary and proper for the purpose of securing the regularity and purity of general, local and primary elections. Nothing in the constitution authorizes the Legislature to delegate to a party committee the making of new qualifications for office, or to make rules and regulations which are to have the force of law or to fix a salary, or the fees of a mere party secretary and appropriate money from the party treasury to pay them.

The Act 1893-4, section 5, page 418, legalizing primaries in the City of Richmond, declares that any person who knowingly or willfully votes or attempts to vote at such primary election or convention contrary to the rules and regulations upon which the same is conducted, shall, upon conviction thereof, be fined not less than \$100.00 nor more than \$300.00, or imprisoned in the city jail not exceeding twelve (12) months.

The Act as to Henrico County, Acts 1895-6, p. 416, provides for the payment of a fee to the secretary of the local county committee not out of the public treasury, but out of the funds of the party holding the primary, raised by assessment on candidates or by voluntary contributions. In section 3 of this act is this provision: "The local county committee of said party may also raise the necessary amounts to defray the expense of such primary elections by voluntary subscriptions from the public *or by assessing the same in an equitable manner against the candidates whose names are to be submitted to such primary election; and no candidate's name shall be printed on any ballot until he shall have paid the amount assessed against him.*" Again, in section 6 this language occurs: "These ballots shall contain the names of all candidates *who have paid the amount ASSESSED against them as such.*"

The Act of Assembly, chapter 587, Acts 1902-4, pages 922 to 941, has these provisions, section 122, paragraph 1: "No person shall vote at any legalized primary election for the nomination of any candidate for office unless he is at the time registered and qualified to vote at the next succeeding election."

2. "In all cases where, by its plan of organization, or otherwise, any political party in this State requires its candidates to be nominated by primary elections, such elections shall be conducted by the judges and clerks or other officers designated by the proper committee or other proper authority of any such party, and under *such rules, regulations and requirements* as may be prescribed in the plan adopted by such party."

3. "All laws intended to secure the regularity and purity of general and local elections, and to prevent and punish any corrupt practices in connection therewith, and the penalties and punishment now or hereafter prescribed by law for such offenses, shall, so far as they may be applicable, apply to all primary elections, whether the same be held under any statute law of this State *or under a plan provided by some political party.*"

This Act while not repealing the Act legalizing primaries as to Richmond and Henrico is general and applies to all of the counties, cities and towns of the State and is practically the same as the Richmond and Henrico Act.

This law, like those, *surrenders* to a political party the power of legislation and of taxing one class of its members. It gives to the plan of party organization and its rules and regulations the force of law, and inflicts punishment for their violation by disfranchisement, fine and imprisonment.

The Constitution of Virginia, article 4, section 50, declares:

"No law shall be enacted except by bill.

No bill shall become a law unless, prior to its passage, it has been—

(a) Referred to a committee of each House, considered by such committee in session, and reported;

(b) Printed by the house in which it originated, prior to its passage therein;

(c) Read at length on three different calendar days in each house; and unless,

(d) A yea and nay vote has been taken in each house upon its final passage, the names of the members voting for and against entered on the journal, and a majority of those voting, which shall include two-fifths of the members elected to each house, recorded in the affirmative, and even after all the formalities are complied with the bill has to be approved by the Governor or vetoed by him and passed over his veto by two-thirds of the members present of each house, and such number present being a majority of the whole number elected."